



Department of Justice

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JUSTICE DEPARTMENT APPROVES PROPOSAL BY CONSTRUCTION TRADE ASSOCIATION TO REQUIRE MEMBERS TO COMPLY WITH CERTIFICATION STANDARDS

WASHINGTON, D.C. -- The Department of Justice's Antitrust Division approved a proposal today by a construction trade association that would require all of its manufacturer members to comply with standards governing the way they reinforce concrete using high strength steel wires.

The Department said that since the association's certification program won't exclude other companies from competing for construction contracts, the proposal will not unreasonably restrict competition. The Department also said that the proposal may have procompetitive effects if the conduct results in improved quality and reputation of the products and systems the association promotes.

The Post-Tensioning Institute (PTI), a trade association of firms and individuals which is involved in the construction of prestressed concrete structures, encourages the use of the "unbonded post-tensioning" construction technique. PTI will not take any action designed to persuade others not to do business with firms that choose not to join PTI or satisfy its plant certification requirements.

The Department's position was stated in a business review letter to counsel from Joel I. Klein, Acting Assistant Attorney General in charge of the Antitrust Division.

Klein stated that "the proposal would not appear to have the effect of facilitating price collusion or reducing output." He also noted that because neither "membership in PTI nor compliance with its plant certification program is necessary to compete successfully for construction contracts" denial of membership to those firms that do not meet PTI's standards would not unreasonably restrict competition.

The unbonded post-tensioning technique favored by PTI refers to a method of reinforcing concrete or other structural elements by utilizing high strength steel wires in the concrete. The wires are stressed to a predetermined force by hydraulic jacks at one end and are locked off at both ends by anchorage devices. The wires are encased within a corrosion inhibiting coating and/or sheathing that prevents the wire from bonding with the concrete, and allows the wire to move freely during the tensioning process even after the concrete has set.

In order to improve the reputation of unbonded post-tensioning systems and promote its utilization over competing systems or materials, PTI has created a plant certification program that independently inspects and certifies the plant operations of companies that produce certain types of unbonded post-tensioned products. Currently, the certification program is voluntary and open to non-members as well as members of PTI. Certification is administered by PTI, but executed by an agency independent of PTI and its members.

Because of the complexity of manufacturing, assembling, storing and shipping unbonded post-tensioned system components, there has been some variation in the quality of unbonded post-tensioned products that has affected the industry's efforts to compete with other systems. PTI hopes to boost this quality and enhance the reputation of these materials through its proposal. All members of PTI will have to meet the standards set forth as a prerequisite for manufacturer membership. Non-members, however, would continue to be eligible for certification.

Under the Department of Justice's business review procedure, an organization may submit a proposed action to the Antitrust Division and receive a statement as to whether the Division will challenge the action under the antitrust laws.

A file containing the business review request and the Department's response may be examined in the Legal Procedure Unit of the Antitrust Division, Suite 215, Liberty Place, 325 7th Street, N.W., Department of Justice, Washington, D.C. 20004. After a 30-day waiting period, the documents supporting the business review will be added to the file.

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